

Service Date: May 26, 1989

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER of the Application)	UTILITY DIVISION
of U S West Communications for)	
Forbearance of Regulation Re: D.A.)	DOCKET NO. 89.5.12
Davidson and Company.)	ORDER NO. 5411a

FINAL ORDER

FINDINGS OF FACT

On March 2, 1989 US West Communications (USWC) filed an application with the Montana Public Service Commission (PSC) requesting forbearance of rate regulation for toll service to D.A. Davidson and Company pursuant to § 69-3-808, MCA. The application was designated as Docket No. 89.3.2.

On March 8, 1989 the PSC denied the application on the grounds that it was incomplete and failed to satisfy the requirements of ARM 38.5.2715 and § 69-3-808, MCA. A Notice of Commission Action was served March 10, 1989. Docket No. 89.3.2 was closed by Order No. 5407 on April 24, 1989.

On May 15, 1989 USWC filed an application with the PSC requesting forbearance of rate regulation of intraLATA long dis-

tance volume discount contract service to D.A. Davidson and Company, pursuant to § 69-3-808, MCA. This application was verified by George D. Ruff, USWC Montana Vice President and Chief Executive Officer.

The application states that it is the result of a request initiated by D.A. Davidson and Company and "made available to other vendors serving the area;" and that MCI Communications and Telesphere International "have submitted proposals." The application notes that the competing service is not restricted to a LATA. The letter from D.A. Davidson and Company submitted with the application states that it has "received proposals for long distance rates from Telesphere International and MCI for similar services.

On May 19, 1989 the Commission staff issued data requests to D.A. Davidson, MCI Communications and Telesphere International.

Telesphere's responses indicate Telesphere has not received a request for proposal from D.A. Davidson. Although a Telesphere representative did meet with D.A. Davidson on one occasion, that meeting took place 9-12 months ago and no further meetings were held. No specific proposals were made for toll services.

MCI submitted an affidavit of Faye McCall, its Senior Representative of the West Division of MCI located in Billings,

Montana. Ms. McCall states that she did inquire of D.A. Davidson in late 1988 whether it would be interested in having MCI submit a proposal for providing long distance services. D.A. Davidson did not express an interest in having MCI submit a proposal and MCI did not submit a proposal. Further, MCI's responses to data requests indicate that it has not received any written or oral requests for proposal from D.A. Davidson and it has not provided any written or oral proposals to D.A. Davidson.

The Commission finds that intraLATA toll service is not being offered to D.A. Davidson by parties other than USWC, that is, an alternative offer does not exist. Further, there is no evidence that D.A. Davidson has issued a request for proposal to any parties other than USWC, or is interested in purchasing intraLATA toll from an alternate source.

The purpose of § 69-3-808, MCA, is to facilitate competition. This section allows utilities to apply for rate flexibility for specific customers any may prevent those customers from leaving the network. The Commission supports this concept. However, the Commission hopes that USWC will not attempt to abuse this section of the Montana Telecommunications Act by filing similar unsupported applications in the future. If USWC wishes to offer volume discounts to D.A. Davidson it is currently authorized to offer discounts of up to 25 percent under its current Montana tariff (Section A6.3.14).

CONCLUSIONS OF LAW

1. USWC offers regulated telecommunications services in the state of Montana and is a public utility pursuant to § 69-3-101, MCA. The Commission has authority to supervise, regulate and control public utilities. § 69-3-102, MCA.

2. The application fails to provide a sufficient description of the alternative service offered and the market area. ARM 38.5.2715.

3. Based upon the information provided by MCI Communications and Telesphere International, the PSC concludes that similar service is not in fact being offered to D.A. Davidson and Company by other parties, as required by § 69-3-808(3), MCA.

4. The Applicant has not established that a viable competitive offer exists in satisfaction of its burden pursuant to ARM 38.5.2715(2).

5. The PSC concludes that forbearing from rate regulation in this instance would not facilitate competition. §69-3-808(1), MCA, and ARM 38.5.2715(1).

ORDER

1. USWC's application for forbearance of rate regulation of intraLATA long distance service to D.A. Davidson and Company is hereby DENIED.

2. This docket is closed.

Done and Dated this 26th day of May, 1989 by a 5-0 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

CLYDE JARVIS, Chairman

HOWARD L. ELLIS, Vice Chairman

JOHN B. DRISCOLL, Commissioner

WALLACE W. "WALLY" MERCER, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Ann Purcell
Acting Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.